

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

Debra Simmons,	)	
	)	
Plaintiff,	)	C.A. No. 8:04-1112-HMH-JRM
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
Jo Anne B. Barnhart,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

This matter is before the court on a motion for attorney's fees and costs pursuant to 42 U.S.C. § 406(b). Counsel for Debra Simmons ("Simmons") seeks attorney's fees for services rendered in the above-captioned social security action in the amount of Five Thousand Three Hundred Dollars (\$5,300.00), the maximum amount of fees Simmons agreed to pay. (Mot. Atty's Fees 1.) The attorney's fees Simmons' attorney seeks are less than 25% of Simmons' recovery in the case. (Id.) The Commissioner does not object to the request for attorney's fees, and the court finds the total fee amount to be reasonable. Therefore, Simmons' counsel is entitled to fees in the amount of \$5,300. Finally, as Simmons' counsel acknowledged in her affidavit, she must refund fees awarded under the Equal Access to Justice Act ("EAJA") to Simmons. See Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002).

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
February 28, 2006